IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 13057 of 2005

Between:

A. Janardhan Rao, S/o. A. Rangaiah,
Girijan Cooperative Corporation Ltd.,

at Girijan Primary Coop. Marketing Society Ltd.,
Narsampet, Warangal District.

..... PETITIONER

AND

1 The Girijan Coop. Corporation Ltd.,

rep by its Vice Chairman and Managing Director,
Visakhapatnam.
2 The Senior Manager, The Girijan Primary Coop. Marketing

Society Ltd., Narsampet, Warangal Districtr.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more in the nature of writ of Mandamus declaring the action of the respondents in issuing proceedings Rc.No. 1356/01/IA.2, dated 16-7-2004 as confirmed in L.Dis.1128/05/IA.2, dated 16-5-2005 seeking to recover an amount of Rs. 1,52,418-05 ps, from my salary as illegal, arbitrary, opposed to the principles of natural justice offending Art. 14, 16 and 21 of the Constitution of India and consequentially to direct the respondents to refrain from giving effect to the impugned proceedings and to refund the amount already recovered from the petitioner.

Counsel for the Petitioner : MR.M.SUDHIR KUMAR

Counsel for the Respondents : MR.N.SRIDHAR REDDY

The Court made the following :

O R D E R:

This Writ Petition is filed by the petitioner aggrieved by the proceedings of the respondents dated 16.07.2004, which were confirmed by the proceedings dated 16.05.2005 proposing to recover an amount of Rs.1,52,418/- from the salary of the petitioner on the ground that he is responsible for the loss on account of the deficit quantities of Gum and some other minor forest products.

2. The petitioner is working as a Senior Accountant in the 1st respondent Corporation at Narsampet, Warangal district. It is stated that during the period 1995-96 he was looking after the stocks relating to the Gum and other minor products of the 1st respondent Corporation. The Corporation in the course of verification found that there was some shortage in the stocks, and the value of the said stock was arrived at Rs.1,52,418/-. When a copy of the said assessment of the deficit stock was served on the petitioner, he made a representation to the 1st respondent Corporation explaining the circumstances. The 1st respondent again issued proceedings dated 10.03.2005 referring to the circular instructions dated 27.06.1996, as per which the gum received ought to have been transferred to the gum tray drying centre, and instead of that keeping the said stock in the godown is violation of the circular instructions, and therefore, no driage will be allowed and inadmissible deficit's amount should be remitted to the 1st Respondent Corporation. Accordingly, the respondents proposed to recover the amount, quantified at Rs.1,52,418=50 paise in instalments at the rate of Rs.2000/- per month from the salary of the petitioner. The petitioner again made a representation, which was rejected by proceedings dated 16.05.2005. Hence, the petitioner has come up with the present Writ Petition.

3. The learned counsel for the petitioner contended that the entire enquiry was conducted by the Corporation behind the petitioner and no notice and opportunity was given to the petitioner to explain the shortage if any found during the course of verification of the stocks. In fact, according to the petitioner, the stock was being verified from time to time and it was properly explained and answered by the petitioner to the concerned authorities, who had verified the stocks. Therefore, there is no question of fixing any liability on the petitioner towards the deficit stock of gum and other minor material. The learned counsel also contended that as the liability was fixed without properly giving an opportunity to the petitioner, the same is not sustainable, as it violates the principles of natural justice.

4. The learned Standing Counsel for the Respondent Corporation sought to sustain the action of the respondents. The learned Standing Counsel also contended that the petitioner has got an effective remedy of appeal against the impugned proceedings. Therefore, there is no merit warranting interference with the impugned order.

5. Heard both sides and considered the material on record.

6. Without going into the merits of the contentions raised by the respective parties, *prima facie,* as this Court is of the view that the exercise carried out by the 1st respondent Corporation was without giving any notice and opportunity to the petitioner before quantifying the deficit stock and ascertaining the value by proceedings dated 16.7.2004, and as the said proceedings are the basis for the proposed action against the petitioner, the respondents ought to have given an opportunity before fixing/ determining the quantity of the deficit stock. As no opportunity was given to the petitioner, the impugned proceedings dated 16.7.2004 and 16.5.2005 are illegal and liable to be set aside.

7. Therefore, the impugned proceedings dated 16.07.2004 and 16.05.2005 are set aside, with a direction to the 1st respondent Corporation to give notice and an opportunity to the petitioner before determining the deficit stock of gum and other minor forest produce before fixing any liability on the petitioner. The petitioner is entitled to place all the relevant material in the process of enquiry and satisfy the

authorities that he is not responsible for causing any deficiency or that there is no deficit in the stock of the gum and other material. The 1st respondent is also directed to complete the process of enquiry expeditiously, preferably within a period of three months from the date of receipt of a copy of this order.

8. The Writ Petition is accordingly disposed of. No costs.

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S. Ananda Reddy, J.

Dt. 30..06..2005

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To

1 The Vice Chairman and Managing Director,

Girijan Coop. Corporation Ltd., Visakhapatnam.

2 The Senior Manager, The Girijan Primary Coop. Marketing

Society Ltd., Narsampet, Warangal District.

3 2 CD copies

4 1 CC to MR.SUDHIR KUMAR, Advocate.

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

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W.P. No. 13057 of 2005

O R D E R

30..06..2005